

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

DARIEN HOUSER,)	
)	
Petitioner,)	
)	Civil Action No. 10-0416
v.)	District Judge Donetta W. Ambrose
)	Magistrate Judge Cynthia Reed Eddy
JEFFREY BEARD, et al,)	
)	
Respondents.)	
)	
)	

MEMORANDUM ORDER

Plaintiff Darien Houser is an inmate at the State Correctional Institution at Greene (“SCI-Greene”) in Waynesburg, Pennsylvania. Plaintiff filed this cause of action against 38 Defendants on March 29, 2010, alleging claims arising from the Civil Rights Act of 1871, 42 U.S.C. § 1983, the Americans with Disabilities Act, 42 U.S.C. § 12101, and various state tort laws. (ECF No. 4). Defendants are various employees and officials of the Pennsylvania Department of Corrections and various health care providers of services at SCI-Greene. On August 4, 2010, this case was referred to a United States Magistrate Judge for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and the local rules of court.

On December 16, 2011, the Magistrate Judge filed a Report and Recommendation (ECF No. 26) recommending that the case be dismissed with prejudice under Poulis v. State Farm Fire and Casualty Co., 747 F.2d 863 (3d Cir. 1984), *sua sponte*, because of Plaintiff’s repeated failure to comply with the orders of this Court, and his failure to prosecute.

The Report and Recommendation were mailed to Petitioner at his listed address and he was advised that he had until January 4, 2012, to file written objections to the Report and Recommendation. No objections were filed by that date, and on January 23, 2012, this Court

entered an Order (ECF No. 27) adopting the Report and Recommendation (ECF. No. 26) dated December 16, 2011 as the Opinion of the Court, and dismissing the case with prejudice for failure to prosecute.

Subsequently, Petitioner filed a motion to reconsider the Order adopting the Magistrate Judge's Report and Recommendation, asserting that he had not received said Report and Recommendation. This Court granted the motion to reconsider on January 30, 2012 (ECF No. 29) "only to the extent that petitioner shall be permitted to file objections to the enclosed Report and Recommendations" On February 15, 2012, Petitioner filed his Objections (ECF No. 30).

After careful consideration, the Court will grant Petitioner's Objections, and will vacate the Report and Recommendation (ECF No. 26).

This matter is remanded back to Magistrate Judge Eddy for further pretrial proceedings.

s/ Donetta W. Ambrose
Donetta W. Ambrose
United States District Judge

cc:
Darien Houser
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